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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,205	10/27/2000	Reinhold Mayr	MAYRRETAL-1	3274

7590

08/12/2004

Collard & Roe  
1077 Northern Boulevard  
Roslyn, NY 11576

EXAMINER
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PETERSON, KENNETH E

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 08/12/2004

25

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/674,205

Applicant(s)

MAYR ET AL.

Examiner

Kenneth E Peterson

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 6-10 is/are pending in the application.
- 4a) Of the above claim(s) 7,9,10 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 is/are allowed.
- 6) ☒ Claim(s) 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the German patent to Wallers (DE003406455A1) in view of Gebhart and Murray.

Waller's shows a cantilevered saw blade having all of the recited limitations including a saw frame (4), a slider crank drive (6), a feeder conveyor (11), a cantilevered blade (2), an conveyor motor (15), a controlling system (21) having a "stored control program" (39) and a signal transmitter (e.g. 9,26).

Waller's elements are all mechanical. However, it has long been held to be obvious to update old mechanical machinery with modern electronics, usually because the electronics are cheaper and need not be specially manufactured for the given situation, but instead need only be programmed. Gebhart shows that it is well known to have a sensor (67) to sense the bottom stroke of the blade, and to send an electronic signal to a controller to cause incremental workfeed (lines 1-25, column 1).

It would have been obvious to one of ordinary skill in the art to one of ordinary skill to have replaced Wallers' mechanical system with an electronic sensor, as taught by Gebhart, in order to update Wallers' device with the cheaper and more flexible electronics.

Neither Waller's controller (21) nor Gebhart's controller (line 9 column 8) is mentioned as a being a programmed computer controller. Examiner takes Official

Notice that it is old and well known to use a programmed computer to control incremental workfeed into a saw. An example of such is Murray on lines 61-65 of column 2. It would have been obvious to one of ordinary skill in the art to have further modified Wallers by making the controller a programmed computer controller, as taught by Murray, in order to update Wallers' device with the cheaper and more flexible electronics.

3. Claim 8 is allowed.

4. Applicant's arguments have been fully considered but they are not persuasive.

On page 2 of Applicant's remarks, Applicant states that "*Waller's control depends on the angle of rotation of the slider crank 6. In contrast to this, the control of Applicant's motor 10 intermittently driving feed conveyor 10 is independent of the angle of rotation of slider crank drive 4*". Examiner disagrees. As seen in paragraph (f) of claim 6, Applicant's feed conveyor is driven by a signal responsive to a preset position of rotation of the slider crank drive. It is not understood why Applicant would use the word "independent" to describe the relationship between the driving feed conveyor and the angle of rotation of slider crank drive.

Applicant then makes a rather tortuous combination of Wallers and Gebhart, stating that Gebhart's sensor would be placed on Waller's control disc 39. Examiner proposes no such modification. Instead, Waller's mechanical system would be almost completely replaced by Gebhart's electronic system, as is common when updating old mechanical systems. Gebhart suggests putting the sensor on the blade, so Waller

would be modified to have the sensor on the blade (or on a similarly moving part). The position of the blade corresponds to the position of the slider crank, so the limitations of claim 6, paragraph (f) are met.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson whose telephone number is 703-308-2186. The examiner can normally be reached on Monday thru Thursday between 7am and 4pm.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9306. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

kp

July 29, 2004



KENNETH E. PETERSON  
PRIMARY EXAMINER